

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

JENNIFER FRY
1495 Pinewood Boulevard
Fremont, OH 43420

Plaintiff,

vs.

AMERICAN CORADIUS
INTERNATIONAL
4500 Cherry Creek Drive
Suite 700-710
Denver, Colorado 80246

Defendant.

No. 1:10-cv-708

JURY DEMAND ENDORSED HEREON

VERIFIED CIVIL COMPLAINT

(Unlawful Debt Collection Practices)

COMPLAINT

COMES NOW the Plaintiff, JENNIFER FRY (hereinafter "Plaintiff"), by and through his attorney, KROHN & MOSS, LTD., and for Plaintiff's Complaint against Defendant, AMERICAN CORADIUS INTERNATIONAL, allege and affirmatively state as follows:

INTRODUCTION

1. The United States Congress has found abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors, and has determined that abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy. Congress wrote the Fair Debt Collection Practices Act, 15 U.S.C. 1692 *et seq.* (hereinafter "FDCPA"), to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using

abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses. (15 U.S.C. 1692(a) – (e))

2. Plaintiff, through Plaintiff's attorneys, brings this action to challenge the actions of AMERICAN CORADIUS INTERNATIONAL (hereinafter "Defendant") with regard to attempts by Defendant, a debt collector, to unlawfully and abusively collect a debt allegedly owed by Plaintiff, and this conduct caused Plaintiff's damages.

3. For the purposes of this Petition, unless otherwise indicated, "Defendant" includes all agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers of Defendant named in this caption.

JURISDICTION AND VENUE

4. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."

5. Because Defendant conducts business in the State of Ohio, personal jurisdiction is established.

6. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).

7. Declaratory relief is available pursuant to 28 U.S.C. 2201 and 2202.

PARTIES

8. Plaintiff is a natural person who resides in the City of Fremont, County of Sandusky, State of Ohio and is obligated or allegedly obligated to pay a debt and is a "consumer" as that term is defined by 15 U.S.C. 1692a(3).

9. Plaintiff is informed and believes, and thereon alleges, that Defendant is a

professional corporation with its principal place of business in Denver, Colorado.

10. Plaintiff is informed and believes, and thereon alleges, that Defendant uses instrumentalities of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6)

FACTUAL ALLEGATIONS

11. Defendant constantly and continuously places collection calls to Plaintiff seeking and demanding payment for an alleged debt.

12. Defendant repeatedly failed to properly identify itself as a debt collector and failed to mention that all information sought would be used for that purpose. (See Exhibit "A" collectively).

13. Defendant was rude and abusive to Plaintiff and hung up on Plaintiff.

COUNT I

DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT, (FDCPA), 15 U.S.C. § 1692 et seq.

14. Plaintiff repeats, re-alleges and incorporates by reference all of the foregoing paragraphs.

15. Defendant **violated the FDCPA**. Defendant's violations include, but are not limited to the following:

- a. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, or abuse the Plaintiff in connection with

the collection of a debt.

- b. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiff.
- c. Defendant violated §1692e(10) of the FDCPA by using deceptive means in an attempt to collect a debt by failing to disclose in subsequent communications that the communication was from a debt collector.
- d. Defendant violated §1692e(11) of the FDCPA by failing to disclose in subsequent communications that the communication was from a debt collector.

15. As a consequence of Defendant's foregoing actions, Plaintiff has suffered from stress, anxiety, and humiliation. (See Exhibit "B").

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- 16. Declaratory judgment that the Defendant's conduct violated the FDCPA.
- 17. Statutory damages pursuant to the FDCPA 15 U.S.C. 1692k.
- 18. Costs and reasonable attorney's fees pursuant to the FDCPA, 15 U.S.C. 1692k.
- 19. Any other relief that this court deems to be just and proper.

RESPECTFULLY SUBMITTED,

By: /s/Peter Cozmyk
Peter Cozmyk
Attorney for Plaintiff

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DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, JENNIFER FRY hereby demands trial by jury in
this action.

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF OHIO)

Plaintiff, JENNIFER FRY, says as follows:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, JENNIFER FRY, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 3/31/10



JENNIFER FRY,
Plaintiff

EXHIBIT A

----- Original Message -----

From: 18884007804@vm.vonage.com

To: daniel d fry (14193343325)

Sent: Saturday, March 06, 2010 10:34 AM

Subject: Vonage Visual Voicemail from 18884007804 - New Voicemail Received

Date : Mar 06 2010 10:33:06 AM

From : 18884007804

To : daniel d fry (14193343325)

"Hello this confidential and important message is meant solely for Jennifer Fry. The law requires I notify you that I'm calling from ACI, a debt collection company. This is an attempt to collect a debt and any information obtained will be used for that purpose. Please call me back today at 888-400-7804. Once again the number is 888-400-7804. When calling back refer to ID code 369-8264. Thank you. Goodbye "

--- Brought to you by Vonage ---

This email was sent from a mailbox that does not accept replies.

If you require assistance from Customer Care, please visit our Contact Us page at http://www.vonage.com/help_contactUS.php

----- Original Message -----

From: 18884007804@vm.vonage.com

To: daniel d fry (14193343325)

Sent: Thursday, March 18, 2010 9:24 AM

Subject: Vonage Visual Voicemail from 18884007804 - New Voicemail Received

Date : Mar 18 2010 09:24:12 AM

From : 18884007804

To : daniel d fry (14193343325)

"Hi this message is for Ms. Jennifer Fry, this is Brenda with ACL. Please return my call 1-888-400-7804 ext. 2203. Your reference number 369-8264 "

--- Brought to you by Vonage ---

This email was sent from a mailbox that does not accept replies.

If you require assistance from Customer Care, please visit our Contact Us page at http://www.vonage.com/help_contactUS.php